

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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| GREGG L. BARNES, aka |) | Case No. EDCV 08-0589-AG(RC) |
| GREGGORY L. BARNES, |) | EDCV 08-0751-AG(RC) |
| |) | |
| Petitioner, |) | |
| vs. |) | ORDER ADOPTING REPORT AND |
| |) | RECOMMENDATION OF UNITED STATES |
| JAMES A. YATES, Warden, ¹ |) | MAGISTRATE JUDGE AND ORDER DENYING |
| |) | CERTIFICATE OF APPEALABILITY |
| Respondent. |) | |
| _____ |) | |

Pursuant to 28 U.S.C. Section 636, the Court has reviewed the petition and other papers along with the attached Report and Recommendation of United States Magistrate Judge Rosalyn M. Chapman, as well as petitioner's objections, and has made a de novo determination.

IT IS ORDERED that (1) the Report and Recommendation is approved and adopted; (2) the Report and Recommendation is adopted as the findings of fact and conclusions of law herein; and (3)

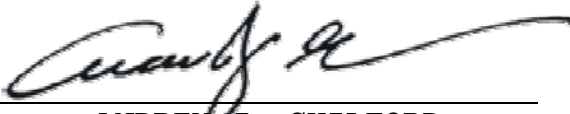
¹ Pursuant to Fed. R. Civ. P. 25(d)(1), James A. Yates is substituted as respondent.

Judgment shall be entered denying the petition for writ of habeas corpus and dismissing the action with prejudice.

This Court finds an appeal would not be taken in good faith, and petitioner has not made a substantial showing that he has been denied a constitutional right, for the reasons set forth in the Report and Recommendation of the United States Magistrate Judge; accordingly, a certificate of appealability should not issue under 28 U.S.C. § 2253(c)(2) and Fed. R. App. P. 22(b). Slack v. McDaniel, 529 U.S. 473, 483, 120 S. Ct. 1595, 1604, 146 L. Ed. 2d 542 (2000); Mayfield v. Calderon, 229 F.3d 895, 900 (9th Cir. 2000).

IT IS FURTHER ORDERED that the Clerk shall serve copies of this Order and the Magistrate Judge's Report and Recommendation by the United States mail on petitioner.

DATED: August 31, 2010



ANDREW J. GUILFORD
UNITED STATES DISTRICT JUDGE

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